

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSEPH T. ZALKE,

Plaintiff,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Defendant.

CASE NO. C24-0197JLR

ORDER

Before the court is *pro se* Plaintiff Joseph T. Zalke's "motion to request late filing and to extend time for service," which the court liberally construes as a motion for relief from judgment and to extend the time for service of the summons and complaint. (Mot. (Dkt. # 6).) Because Defendant the Commissioner of Internal Revenue ("Defendant") has not appeared in this action (*see generally* Dkt.), the court exercises its discretion under Federal Rule of Civil Procedure 1 to decide the motion before its noting date. *See* Fed. R. Civ. P. 1 (stating that the Federal Rules of Civil Procedure should be construed

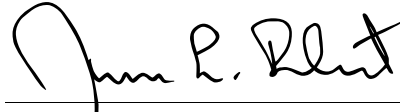
1 “to secure the just, speedy, and inexpensive determination of every action and
2 proceeding”). The court has reviewed the motion, the relevant portions of the record, and
3 the applicable law. For the reasons explained below, the court GRANTS the motion,
4 VACATES the judgment, and EXTENDS the service deadline as set forth herein.

5 On June 13, 2024, the court entered an order directing Mr. Zalke to show cause
6 within ten days why the court should not dismiss this case without prejudice for failure to
7 serve Defendant with a summons and a copy of the complaint within the timeframe
8 provided by Federal Rule of Civil Procedure 4(m). (OSC (Dkt. # 3)); *see also* Fed. R.
9 Civ. P. 4(m). When Mr. Zalke did not timely respond to the order show cause (*see*
10 *generally* Dkt.), the court dismissed this case without prejudice (6/27/24 Order (Dkt. # 4))
11 and entered judgment (Judgment (Dkt. # 5)). Mr. Zalke filed this motion on July 25,
12 2024. (*See generally* Mot.) In his motion, Mr. Zalke asserts he was “recently on
13 vacation during the relevant period, which caused a delay in receiving and responding to
14 the [c]ourt’s mails.” (Mot. at 1.) Mr. Zalke is not registered for e-filing (*see generally*
15 Dkt.), and therefore receives court correspondence solely through U.S. Mail at the
16 address listed on the docket.

17 Federal Rule of Civil Procedure 60(b)(1) provides that, “[o]n motion and just
18 terms,” the court may relieve a party from a final judgment based on mistake,
19 inadvertence, or excusable neglect. Fed. R. Civ. P. 60(b). The court concludes that,
20 under the circumstances, it is appropriate to GRANT Mr. Zalke’s motion for relief from
21 judgment (Dkt. # 6) based upon excusable neglect, VACATE the June 27, 2024 judgment
22 (Dkt. # 5), and EXTEND the service deadline. Mr. Zalke shall serve Defendant with a

1 summons and a copy of the complaint and file proof of the same on the docket by no later
2 than **August 30, 2024**. The court warns Mr. Zalke that no further extensions of the
3 service deadline will be granted absent exceptional circumstances.

4 Dated this 31st day of July, 2024.

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6 JAMES L. ROBART
7 United States District Judge
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